

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

PINNACLE PACKAGING COMPANY,)
INC., an Oklahoma corporation,)
POLO ROAD LEASING, LLC, an Okla-)
homa limited liability company, and)
J. SCOTT DICKMAN,)

Plaintiffs,)

vs.)

Case No. 12-CV-537-JED-TLW

CONSTANTIA FLEXIBLES GmbH, an)
Austrian corporation, and)
ONE EQUITY PARTNERS (EUROPE) GmbH,)

Defendants.)

**MOTION TO AMEND SECOND AMENDED COMPLAINT
AND BRIEF IN SUPPORT**

Plaintiffs, Pinnacle Packaging Company, Inc., Polo Road Leasing, LLC, and J. Scott Dickman (“Plaintiffs”), hereby move the Court for permission to file a Third Amended Complaint by adding the information shown in bolded text in the attached copies of the existing paragraphs 53-56 in Exhibit A. The Third Amended Complaint would then be filed as attached under Exhibit B. In support of this Motion to Amend, the Plaintiffs show the Court:

1. The Scheduling Order permits amendments through the date of this filing, *i.e.*, July 7, 2015..
2. Plaintiffs’ counsel today contacted counsel for Defendants and sought their position with regard to objection, and a response was not possible today. Plaintiffs will make a supplemental filing upon a response from the Defendants.
3. The proposed amendment is essentially incorporated within the prior pleading through paragraph No. 40, though to avoid any technical issues at pretrial, the Plaintiffs believe it is prudent for them to formally seek amendment. Not only is the alleged omission mentioned in the previously-

existing paragraph 40, but it was also made known to the Defendants in Plaintiffs' response to Interrogatory No. 4 in the Response of Plaintiffs to Defendants, Constantia Flexibles GmbH and One Equity Partner (Europe) GmbH's First Set of Interrogatories served on May 5, 2015.

4. Given the previous allegations of fraud, and the denial in the Answer of all the paragraphs to which an amendment is being added, the Defendants cannot claim prejudice by the Court's granting this amendment, as fraud has been the subject of discovery, and no depositions have been taken by Defendants. Moreover, there should be no further proceedings by way of motions to dismiss, because the issue of fraud was already been addressed in the prior motion to dismiss.

WHEREFORE, Plaintiffs pray their Motion be granted, and that they be given other just and appropriate relief.

s/ Laurence L. Pinkerton

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CERTIFICATE OF SERVICE

I hereby certify that on July 7th, 2015, I electronically transmitted the foregoing pleading, to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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